

dec:6-11-80



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
100,024	12/03/79	Daniel Berney	900-9181

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MAILED

JUN 16 1980

EXAMINER	
R. Hines	
ART UNIT	PAPER NUMBER
117	4

DATE MAILED:

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

GROUP 110

☒ This application has been examined. ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited, Form PTO-892.
- ☐ Notice of Informal Patent Drawing, PTO-948.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ _____

Part II SUMMARY OF ACTION

1. ☒ Claims 1-3 and 5-32 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 4 has been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-3 are rejected.

5. ☐ Claims _____ are objected to.

6. ☒ Claims 5-32 are subject to restriction or election requirement.

7. ☐ The formal drawings filed on _____ are acceptable.

8. ☐ The drawing correction request filed on _____ has been ☐ approved. ☐ disapproved.

9. ☒ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has

☐ been received. ☐ not been received.

☒ been filed in parent application, serial no. 789,808

filed on April 22, 1977

10. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

11. ☐ Other

The claims are 1-3 and 5-32

Claims 1-3 are rejected as being rendered prima facie obvious under 35 USC 103 over either Biniecki et al. (R), hereinafter Biniecki (I) or Biniecki et al. (S), hereinafter Biniecki (II), of record, especially in view of Gunn et al. and Crossley, of record. The primary references both specifically set forth the closely related N-phenethyl-N-methyl-substituted naphthalene derivative of the instantly claimed cinnamyl compound, and moreover, the compounds of the prior art possess an available utility. The secondary art sets forth the fact that the phenethyl and cinnamyl moieties are not only structurally similar but also are pharmacologically quite similar, per se. Applicants' arguments have been carefully considered but are not deemed persuasive on the basis that the claimed compounds while differing from the prior art, in at most two respects, are not patentably significant. since as set forth in the art the phenethyl versus the cinnamyl is productive of only the art expected results, in the absence of any unexpected properties and the difference in isomerism is also not considered unobvious in the absence of any unexpected properties. Further, the combination of references is proper, since the compounds of the prior art are all useful as muscle relaxants, and moreover, the interchange of the phenethylamine and cinnamylamine

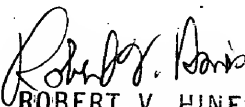
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Art Unit 117

would be suggested by the prior art. No invention is seen in the instantly claimed class of compounds over the teachings of the prior art in the absence of any unexpected properties.

Applicant's are required to elect a single disclosed ultimate species from one of claims 5-32 for further examination, since no allowable generic claim is present.


ROBERT V. HINES
EXAMINER
GROUP ART UNIT 117

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